IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.7206 OF 2004

Hansraj Taraji Jain Sanghvi .... Petitioners
Vs.
Kutubuddin Mohamadbhai and others .... Respondents

Sarvasri A.Y. Sakhare, Senior Counsel,
with D.R. More for the Petitioners.

None present for the Respondents.

CORAM: R.M.S. KHANDEPARKAR, J.

DATED: OCTOBER 04, 2004

P.C:

1. Heard the learned Advocate for the petitioners. Perused the records.

2. The petitioners challenge the concurrent findings on the point of bona fide need of the suit premises to the landlord and on which ground the eviction of the petitioners from the suit premises has been ordered. The contention of the petitioners is that considering the age factor of the landlords i.e. the plaintiff No.1 being of 61 years, Aayub being of 75 years and Yakub being of 62 years, it cannot be said to be a bona fide need of the landlord to keep the premises. There is no presumption that merely because a person crosses the age of 60 years or 62 years, that his need to occupy the

premises for business purposes can be said to be not bona fide, or lack bona fide. There is no age bar for carrying out the business for a person. Considering the same, and there being no other ground raised for challenging the impugned decree of eviction, which has been passed by the Court below on detail analysis of the evidence on record and confirmed by the lower Appellate Court, there is no case for interference therein in exercise of power under Article 227 of the Constitution of India. Hence the petition fails and is rejected.

3. On oral request by the learned Advocate for the petitioners, time to vacate the suit premises is extended till 31-1-2005, subject to submitting undertaking by the petitioners and every major member of the petitioners' family as well as those occupying the premises, to be filed before the Registrar (Judl.) of this Court within three weeks from today assuring that the petitioners shall handover the vacant and peaceful possession of the suit premises to the respondents/landlord on or before 31-1-2005 and shall not induct any third person nor shall create any third party interest in the suit premises.